WASHINGTON STATE LEGISLATURE

Joint Committee on Pension Policy

2420 Bristol Court S.W., Suite 101 – P.O. Box 40914
Olympia, WA 98504-0914
FAX: (360) 586-8135 (360) 753-9144 TDD: 1-800-635-9993

August 14, 2002

10 AM - 1 PM

Senate Hearing Room 4
Olympia

REVISED AGENDA

10:00 AM	**(1)**	**Personnel Committee Report** – Senator Karen Fraser
10:30 AM	**(2)**	**Excess Compensation** – David Pringle, Research Analyst
11:00 AM	**(3)**	**Pension Fund Investments** – Gary Bruebaker, Acting Director & Chief Investment Officer, State Investment Board
11:15 AM	**(4)**	**LEOFF 2 Duty-related Disability** – Bob Baker, Senior Research Analyst
Noon	**(5)**	**Age 70-1/2 Retirement** – David Pringle
12:15 PM	**(6)**	**Elected Officials Opt In/Opt Out** – David Pringle
12:30 PM	**(7)**	**$150,000 Death Benefit** – Bob Baker
12:45 PM	**(8)**	**TRS 1 Extended School Year** – Bob Baker
1 PM	**(9)**	**Adjourn**

Persons with disabilities needing auxiliary aids or services for purposes of attending or participating in Joint Committee on Pension Policy meetings should call (360) 753-9695. TDD 1-800-635-9993

JOINT COMMITTEE ON PENSION POLICY

Proposed Meeting Schedule

(August 5, 2002)

April 17, 2002
10 AM - 12:30 PM, House Hearing Room A

Election of Officers
Meeting Schedule; Interim Issues
Session Update
Funding Projections

May 13, 2002
10 AM - 1 PM, Senate Hearing Room 4

Plan 1 Retiree COLAs
Governance
Actuarial Presentation

June 19, 2002
10 AM - 1 PM, Senate Hearing Room 4

Governance
Public Safety Benefits

July 10, 2002
10 AM - 1 PM, Senate Hearing Room 4

Membership and Service Credit
EMTs into LEOFF
Governance
Public Safety Cost Examples

August 14, 2002
10 AM - 1 PM, Senate Hearing Room 4

Pension Investments - SIB
Excess Compensation
LEOFF 2 Duty-related Disability
Age 70 ½ Retirement
Elected Officials Opt In/Opt Out
$150,000 Death Benefit
TRS 1 Extended School Year

September 18, 2002
1 - 4 PM, Senate Hearing Room 4

Pension-related Initiative Report
Pension Policy 101
Veteran definition
Pension Funding Council Report

October 16, 2002
10 AM - 1 PM, Senate Hearing Room 4

Post-retirement Employment Status Report

November 13, 2002
10 AM - 1 PM, Senate Hearing Room 4

Legislation

December 4, 2002
12:30 - 3:30 PM, Senate Hearing Room 4

Legislation

Excess Compensation

Issue:

Recent news stories have highlighted the billing of employers for the cost of increased Public Employees' Retirement System pension benefit costs due to certain increases in pay awarded to employees prior to retirement. The system of billing for certain pay increases that impact pension amounts is referred to as "excess compensation."

Background:

Compensation included in a member's pension calculation is called "earnable" or "reportable," and if reportable it must fall within limits established by the excess compensation provisions. If the excess compensation limits are exceeded, an employer may be billed for the present value of the excess compensation's increase to the member's benefit.

Earnable or Reportable Compensation

If an employer pays their employees certain types of compensation that are included in the calculation of their pensions, that compensation is referred to as "earnable" or "reportable compensation." In PERS Plan 1, a member's highest average earnable compensation over a consecutive two-year period is used in conjunction with their service credit total to determine their benefit amount. In contrast, in PERS Plans 2/3 a consecutive sixty month period is used in the calculation of their average final compensation.

Some types of compensation are specifically excluded from being earnable in the various retirement Plans, and there are differences between PERS 1 and PERS 2/3. For example, a member of PERS 1 may cash out annual leave and include it in their pension calculation, but a member in PERS 2/3 may not. The Department of Retirement Systems has adopted extensive regulations that specify what compensation is reportable, and these appear in thirty sections at WAC 415-108-441 through -510.

As an example of the specificity of the rules, WAC 415-108-453:

WAC 415-108-453 Performance bonuses. Bonuses that are based upon meeting certain performance goals are earned for services rendered and are reportable compensation. If a bonus was earned over a specified period of time it should be prorated for reporting purposes.

Example:

An employer pays each employee in the work group an additional $100 if the work group had no work related accidents in the preceding year. Remaining accident free is a performance goal. Therefore the payment is for services rendered and qualifies as reportable compensation. The bonus should be prorated over each of the preceding twelve months during which it was earned.

[Statutory Authority: RCW 41.50.050. 98-09-059, §§ 415-108-453, filed 4/17/98, effective 5/18/98.]

Excess Compensation

Excess compensation is a term defined in statute referring to specific types of reportable compensation that exceed statutory limits. In some instances a member of PERS 1 may have income that they are entitled to include in the calculation of their benefit that is limited by the excess compensation rules.

If one of the excess compensation limits are exceeded, then the amount that the excess compensation increases the member's pension is calculated at present value according to actuarial tables provided to the Department by the State Actuary and employers are billed this amount.

The statutory basis for the excess compensation provisions are in RCW 41.50.150. The statute defines excess compensation as including:

- A cash out of annual leave in excess of two hundred forty hours.
- A cash out of any other form of leave;
- A payment for any personal expense that is reportable compensation;
- The portion of any payment, including overtime or bonuses, that exceeds twice the regular rate of pay;
- Any termination or severance payment.

Since 1995, RCW 41.50.152 has required that the governing body of employers shall, before entering into employment contracts that include excess compensation, hold a public meeting where the nature of the compensation provision is fully disclosed and provide the employer's estimate of the excess compensation billings that the proposed compensation provision may generate.

Pension "Ballooning" - PERS Plan 1

The following examples generally illustrate how a PERS Plan 1 member's benefit might be increased, or "ballooned," by the inclusion of cash outs, bonuses, or other additional items of reportable compensation included in their pension calculation. The examples contrast the average final compensation (AFC) and the benefit a member would receive with a cash out of $8000 of leave, and then also a large bonus, that are reportable compensation:

1. Without cash out of leave.

   Assume: 30 years of service
   Year 1 - $59,000 Salary
   Year 2 - $61,000 Salary

   Formula: 2% X $60,000 AFC x 30 years = $36,000 annual benefit

2. With cash out of leave.

Assume: 30 years of service
Year 1 - $59,000 Salary
Year 2 - $61,000 Salary + $8,000 leave cash out

Formula: 2% x $64,000 AFC x 30 years = $38,400 annual benefit

Result: $2,400 per year or 6.7% increase in retirement benefit

3. With cash out of leave and a bonus of 125% of salary:

Assume: 30 years of service
Year 1 - $59,000 Salary
Year 2 - $61,000 Salary + $8,000 leave cash out + $76,000 bonus pay

Formula: 2% x $102,000 AFC x 30 years = $61,200 annual benefit

The excess compensation provisions would apply to require the employer to pay the present cost of the increase in the member's benefit attributable to leave cash out in excess of 240 hours (if any), and that portion of the member's bonus that is in excess of twice the member's regular rate of pay.

Development of the Excess Compensation Statute:

1984 c 184 s 1 (SHB 843) The excess compensation statute was created in section 1 the act. It established the requirement that the employer pay the present value of retirement benefits based on excess compensation at the time of the employee's retirement. Excess compensation included, but was not limited to, lump sum payments for any form of leave, personal expenses, or severance pay.

1995 c 244 s 1 (SSB 5118) Calculation of excess compensation was amended to specifically include any compensation that exceeded twice the regular rate of pay. Prior to passage, the Joint Committee on Pension Policy found that certain employers were avoiding excess compensation charges by disguising certain types of payments as additional regular salary or overtime.

1995 c 387 s 1 (SB 5990) Created RCW 41.50.152, including the requirement that employers fully disclose the excess compensation impact of a proposed compensation provision at a public meeting.

1997 c 221 s 1 (HB 1102) Clarified the application of excess compensation rules as to the extent that a payment qualifies as reportable compensation in the member's retirement system.

1998 c 341 s 509 (SSB 6306) As part of the major legislation creating the School Employees' Retirement System(SERS), reference to SERS was added to the excess compensation provisions.

1998 c 341 s 510 (SSB 6306) Amended 41.50.152 adding reference to SERS.

Significance of Issue to Policy:

This system of billing employers for excess compensation equalizes employers who have different PERS Plan 1 cash out practices, or other compensation methods that pay unusual amounts of excess reportable compensation. The system permits employers and employees to agree upon the compensation methods that they believe appropriate without impacting retirement system funding. At the same time, employers with little excess compensation do not pay the additional costs that are created in the retirement Plan by those employers with more excess compensation practices.

Tuesday, June 11, 2002

Bonuses lead to PUD retirement windfall

By Laurie Smith

World staff writer

WENATCHEE - For some Chelan County PUD employees, the bonuses of 2000 and 2001 were the gift that keeps on giving - in the form of greatly increased pensions payable for the rest of their lives.

At the end of May, the state Department of Retirement Systems sent the PUD billings for $941,329 to cover additional benefits arising from "excess compensation" paid to three employees who retired earlier this year.

Billings of that magnitude are unprecedented for the department, said Steve Nelsen, the agency's legal and legislative services manager. "It's the first time that there has been a billing for excess salary payments of this size," he said Monday.

The PUD's incentive pay plan, which rewarded employees with a share of power-sale proceeds at a time when electricity prices were skyrocketing, "was an unusual program," Nelsen said. "They were able to generate extraordinary profits and so receive extraordinary bonuses."

And in turn, extraordinary pensions - particularly for people covered by the older of two state retirement systems, Public Employees Retirement System Plan 1 (PERS 1).

The current monthly benefit for a PERS 1 retiree averages $1,040.

By contrast, a power marketing employee who retired from the PUD in April will receive $9,700 a month - more than $116,000 a year - for the rest of his life, Nelsen said. Without the bonuses, he said, the employee's average final salary would have been $6,786 a month, for a monthly benefit of a little more than $4,000.

The benefits were based on the marketing employee's average final compensation over two years.

PUD General Manager Charlie Hosken said Monday that district officials question the way the Department of Retirement Systems calculated excess compensation. Hosken said he did expect billings for additional retirement costs.

"I guess I didn't expect it to be quite that much," he said. But Hosken said he had no estimate of how much the PUD believes it should be.

He said the impact on retirement benefits was discussed when PUD incentive pay programs were set up over the past several years, but "I don't recall the specifics."

"This is one that we have to get smarter on," Hosken said.

Hosken defended the PUD's incentive pay program, which has since been revised for power marketers and is being phased out for other employees. Hosken said the reward system helped the PUD put money in the bank and avoid an electrical rate increase at a time when other utilities were struggling. Providing a compensation program that will attract and retain good employees "is a challenge for us," he said.

Gary Montague, president of the PUD's board of commissioners, and district Commissioner Bob Boyd declined to comment on the billings Monday, saying they wanted to wait and see how the Department of Retirement Systems answers the PUD's questions.

"We're confident that the bills are accurate, and we're working with the PUD to help them understand how the bills were calculated," Nelsen said.

Two retirees who had worked in the PUD's power marketing department account for the bulk of the excess compensation: Leon Jeffery, a former power scheduler whose share of the billings amounts to $479,201; and Michael Green, a former power trader/transmission coordinator whose additional benefits are expected to cost $406,640.

Additional costs related to excess compensation for a third retiree, former director of materials management Jeannie King, are calculated at $55,487.

State law defines excess compensation as a payout of more than double a person's normal hourly rate or a cash-out of more than 240 hours of personal leave, Nelsen said.

Another Chelan PUD employee is scheduled to retire next March, at an additional cost to the district of almost $290,000, he said.

Hosken said the PUD has about 50 PERS 1 employees who are expected to retire in the next couple of years. He said Monday that PUD officials were still trying to determine how many of those people participated in incentive pay programs. He said he believes the number is small.

In response to a Wenatchee World inquiry last July, the PUD reported that 22 PERS 1 employees had collected incentive pay in 2000 and 2001. Four of those people received more than $100,000 in bonuses each.

PERS 1, which stopped accepting new enrollees in 1977, allows retirement at a younger age than Public Employees Retirement System Plan 2 (PERS 2). A PERS 1 employee can retire at any age after 30 years of service, at age 55 after 25 years of service or at 60 after five years of service. PERS 2 employees can't retire until age 65, Nelsen said.

In another difference, PERS 1 employees' benefits are based on their average final compensation over two years, while PERS 2 employees' pensions are based on a five-year average.

LEOFF 2
Duty-related Disability

Duty disability benefits in LEOFF 2 are distinct from those in plan 1 in that they are an earned retirement benefit rather than a fixed percent of pay regardless of time in service.

LEOFF 2 members who meet the various duty disability standards are eligible for an earned retirement benefit, worker's compensation benefits, possibly Social Security benefits, and supplemental disability insurance coverage if enrolled. If there is a question of employer liability in a disability case, members also have the right to bring legal action against their employer.

This paper will provide an overview of the various disability standards and benefits.

LEOFF 2 Duty Disability Standard (RCW 41.26.470)

A member who becomes totally incapacitated for continued employment by an employer as determined by the director shall be eligible to receive an allowance under the provisions of RCW 41.26. Such member shall receive a monthly disability allowance computed as provided for in RCW 41.26.420 and shall have such allowance actuarially reduced to reflect the difference in the number of years between age at disability and the attainment of age fifty-three.

Early Hire LEOFF 2 Disability Scenario

43 years of age, 20 years of service, $70,000 salary
Actuarial reduction factor for a member 10 years from retirement age: .3921
Benefit: $68,068 × 20 × 2% × .3921 = $10,676 per year or $890 per month

Average LEOFF 2 Member Disability Scenario

38 years of age, 10 years of service, $59,600 salary
Actuarial reduction factor for a member 15 years from retirement age: .2541
Benefit: $57,287 × 10 × 2% × .2541 = $2,911 per year or $243 per month

Disability Leave Supplement for a Temporary Total Disability (RCW 41.04.500)

Employers of LEOFF members shall provide a disability leave supplement to employees who qualify for payments under the Department of Labor and Industries Worker's Compensation program (RCW 51.32.090) due to a temporary total disability.

Disability Leave Supplement Amount (RCW 41.04.505)

The disability leave supplement shall be an amount which, when added to the amount payable under RCW 51.32.090 will result in the employee receiving the same pay they would have received for full time active service, taking into account that industrial insurance payments are not subject to federal income or social security taxes.

This benefit is paid for through use of employee's sick and annual leave accumulations and employer payments: ½ employee; ½ employer.

Disability Leave Supplement Estimates

	Early Hire LEOFF 2	Average LEOFF 2
Monthly Salary	$5,833	$4,967
L&I Tax-free equivalent[1]	$4,380	$4,380
Supplement amount	$1,453	$587

1Assumes a 15% tax rate.

Employer Liability

Beyond these benefits LEOFF 2 members are eligible to receive, they also have the right to sue their employer if their disability is a result of negligence on the part of their employer (RCW 41.26.280 and RCW 41.26.281)

Other Issues

Because LEOFF 1 members are not eligible for Worker's Compensation, and because their duty-disability retirement benefit is awarded in the nature of worker's compensation, it is tax free. In comparison, LEOFF 2 members are eligible for worker's compensation, and their duty-disability retirement benefit is an earned retirement benefit. As a result, their duty-disability retirement benefit is not tax free.

Lump-Sum Alternative

At this time there are no LEOFF 2 members receiving a duty-disability retirement benefit. Because of the age and service characteristics of LEOFF 2 members who have been disabled, the actuarial reduction results in a modest duty disability retirement allowance. Up to this date, all members have opted for a refund of 150% of their accumulated contributions and interest in lieu of a duty disability retirement benefit.

The duty-disabled 43 year old with 20 years of service and $70,000 salary would be eligible to withdraw $230,000.

The duty-disabled 38 year old with 10 years of service and $59,600 salary would be eligible to withdraw $71,000.

Worker's Compensation:

Time-Loss Benefits

Those unable to work as a result of injury or disease, will be paid a portion of their regular wages. These time-loss compensation payments will not provide the same income as when they were working (this is where the disability leave supplement applies.)

The amount of a time-loss benefit is 60 to 75 percent of a worker's gross income (includes wages/salary plus medical, dental, and vision benefits, room and board, bonuses, and tips). The percentage depends on the worker's marital status and number of dependents. These benefits cannot exceed 120 percent of the state's average wage ($37,229 × 1.2 = $44,675).

Awards for Partial Permanent Disabilities

If an injury or occupational disease causes permanent loss of bodily function, the injured worker will receive a permanent partial disability award. The amount received for any physical loss is established by the Legislature and does not include compensation for pain and suffering. There are two types of permanent partial disabilities:

- Specified disabilities: Some disabilities have awards that are already set by law. These are easily quantified losses, such as loss of your vision or hearing, or the loss of an eye, leg, foot, toe, arm or finger by amputation (see Appendix A.)
- Unspecified disabilities: These disabilities include every other type of impairment caused by an on-the-job injury or occupational illness, including the partial loss of function to a limb.

Rating Unspecified Disabilities

The degree of a partial loss of function is determined by a disability rating. These ratings are conducted either by the attending physician, or by one or more independent medical examiners using established medical standards and guidelines. Normally, ratings are performed after all services have been completed, the injured worker is medically stable and no further treatment is appropriate.

A permanent partial disability award is not jeopardized by working. Workers are encouraged to return to their job as soon as their doctor releases them for work. Any permanent partial disability award is based on the degree of damage suffered, not on whether you can work.

Pensions for Total Permanent Disabilities

If an accident results in the loss or total paralysis of both legs or arms, one leg and one arm, or a total loss of eyesight, a worker is eligible for a pension by law, even if able to return to work.

If vocational and medical evaluations determine that an injury prevents a worker from ever becoming gainfully employed, they may be paid a monthly pension for life. However, this type of "non-statutory" pension may not be payable if a worker is able to return to work.

Pension benefits are paid monthly. They are based on the amount of time-loss compensation to which a worker is entitled. As with time-loss compensation benefits, the amount a worker is eligible to receive depends on factors such as wages, marital status, number of dependents, health care benefits, Social Security benefits and the state's average wage at the time of your injury. In some cases, a pension benefit amount may be reduced for previously paid permanent partial disability awards.

Pension Survivor Options

If a worker is granted an L&I pension, they can choose one of these survivor options:
- An unreduced single life pension.
- A reduced joint and 50% pension.
- A further reduced joint and 100% pension.

Social Security Disability:

The definition of disability under Social Security is different than other programs. Social Security pays only for total disability. No benefits are payable for partial disability or for short-term disability.

Disability under Social Security is based on an individual's inability to work. An individual is considered disabled under Social Security rules if they cannot do work they did before and they cannot adjust to other work because of their medical condition(s). An individual's disability must also last or be expected to last for at least one year or to result in death.

This is a strict definition of disability. Social Security program rules assume that working families have access to other resources to provide support during periods of short-term disabilities, including workers' compensation, insurance, savings and investments.

Social Security Standard for Disability

Those applying for a Social Security disability benefit are evaluated via a progressive series of question beginning with...

... Are they working? Those currently working and earning more than $780 a month generally are not disabled. For those not working...
... Is their condition "severe"? A condition must interfere with basic work-related activities to be a disability. If it does not, there is no disability. If it does...
... Is their condition on the list of disabling conditions? Social Security maintains a list of medical conditions that automatically mean a worker is disabled. If the condition is not on the list, Social Security determines if it is of equal severity to a condition on the list. If it is, the worker is disabled. If it is not...
... Can they do the work they did previously? If the condition is severe but not at the same or equal level of severity as a medical condition on the list, then Social Security determines if it interferes with their ability to do the work they did previously. If it doesn't, the claim will be denied. If it does...
... Can they do any other type of work? If they cannot adjust to other work, their claim will be approved. If they can adjust to other work, their claim will be denied.

Estimated Social Security Disability Award	
Early Hire LEOFF 2	$1,629 / month
LEOFF 2 Average	$1,550 / month

How Much Work Is Needed?

In addition to meeting the Social Security definition of disability, a worker must have worked long enough--and recently enough--under Social Security to qualify for disability benefits. Social Security work credits are based on total yearly wages or self-employment income. Up to four credits can be earned each year. The amount needed for a credit changes from year to year. For 2002, $870 of wages will earn one credit, and $3,480 of wages will earn the maximum four credits.

The number of work credits needed to qualify for disability benefits depends on the age of disability. Generally, a workers needs 40 credits, 20 of which were earned in the last 10 years ending with the year they become disabled. However, younger workers may qualify with fewer credits.

Appendix A

L&I AWARDS FOR LOSS BY AMPUTATION	July 1, 2002
Of leg above the knee joint with short thigh stump (3" or less below the tuberosity of ischium)	$94,793
Of leg at or above knee joint with functional stump	$85,313
Of leg below knee joint	$75,834
Of leg at ankle (Syme)	$66,355
Of foot at mid-metatarsals	$33,177
Of great toe with resection of metatarsal bone	$19,906
Of great toe at metatarsophalangeal joint	$11,944
Of great toe at interphalangeal joint	$6,320
Of lesser toe (2nd to 5th) with resection of metatarsal bone	$7,267
Of lesser toe at metatarsophalangeal joint	$3,539
Of lesser toe at proximal interphalangeal joint	$2,623
Of lesser toe at distal interphalangeal joint	$664
Of arm at or above the deltoid insertion or by disarticulation at the shoulder	$94,793
Of arm at any point from below the deltoid insertion to below the elbow joint at the insertion of the biceps tendon	$90,053
Of arm at any point from below the elbow joint distal to the insertion of the biceps tendon to and including mid-metacarpal amputation of the hand	$85,313
Of all fingers except the thumb at metacarpophalangeal joints	$51,188
Of thumb at metacarpophalangeal joint or with resection of carpometacarpal bone	$34,125
Of thumb at interphalangeal joint	$17,063
Of index finger at metacarpophalangeal joint or with resection of metacarpal bone	$21,328
Of index finger at proximal interphalangeal joint	$17,063
Of index finger at distal interphalangeal joint	$9,384
Of middle finger at metacarpophalangeal joint or with resection of metacarpal bone	$17,063
Of middle finger at proximal interphalangeal joint	$13,650
Of middle finger at distal interphalangeal joint	$7,678
Of ring finger at metacarpophalangeal joint or with resection of metacarpal bone	$8,531
Of ring finger at proximal interphalangeal joint	$6,825
Of ring finger at distal interphalangeal joint	$4,266
Of little finger at metacarpophalangeal joint or with resection of metacarpal bone	$4,266
Of little finger at proximal interphalangeal joint	$3,413
Of little finger at distal interphalangeal joint	$1,706

Age 70½ Receive Benefit

Issue:

In order to begin receiving a retirement allowance, a member must be eligible for benefits under their plan, leave employment, and apply to the department to start their allowance. They thereby leave active membership and become a retiree. The requirement that a member separate from service exists regardless of age. Federal law requires that private plans allow members to terminate active membership and begin their benefits at age 70½ without leaving employment - a rule that does not apply to governmental plans such as the Washington State Retirement Systems.

Background:

In 1986, the Federal Tax Reform Act included a provision amending Internal Revenue Code section 401(a)(9)(C) requiring all pension and retirement benefits to begin no later than age 70½ regardless of whether the individual remained employed. This served as an exception to the general rule that the employee must retire before the payment of retirement benefits can begin. Individuals who did not begin receiving their pension benefits by this time were made subject to a 50 percent tax on the amount that would have been paid had they retired.

To follow the federal requirement, the Legislature changed the Judicial, Judges, LEOFF, TRS, PERS, and WSPRS systems in 1988 to allow members with more than five years of service to apply for their retirement benefit after age 70½. The change adopted by the legislature was distinct from the federal requirement in that it allowed individuals to be active members and collect service credit, and be retired and collect their benefit simultaneously. The expressed intent of the legislature was that if Congress repealed the requirement for distribution at 70½, payments made to members who never left employment and began their benefit under the provision would cease. The rule was codified as RCW 41.04.065.

Federal law was changed to exempt governmental plans, a category of plans that includes the Washington State Retirement Systems, from the requirement that distribution of benefits commences at age 70½. The state retirement systems currently remain exempt from the federal 70½ rule. RCW 41.04.065 was then repealed by the Legislature in 1991, ending the age 70½ provision.

Vested Active Members Age 70½ or Greater by System and Plan, 2000 Valuation

System	Plan 1 Count	Plan 2 Count	Plan 3 Count
SERS	0	81	15
JRS	1	0	0
PERS	138	167	0
TRS	20	10	0

The 2001 Legislature increased the number of hours that retirees in PERS plan 1 and TRS plan 1 could work without facing a reduction in their benefits. All retirees are still required to separate from service for 30 days, however, or be prohibited from both receiving their benefit and returning to work.

Possible Approaches:

Members of PERS and TRS plans 1, 2, and 3 meeting the vesting requirements for their respective plans could be given the opportunity to apply for retirement benefits to begin without requiring that they separate from service. Upon application for retirement benefits, an individual would cease active membership and no longer accumulate service credit.

Elected Officials Opt In/Opt Out

State Elected Official Service Retirement Provisions

Issue:

State elected officials, such as members of the legislature and statewide office holders such as the Secretary of State or the Lieutenant Governor, have special rules regarding their participation and benefits from the Washington State Retirement Systems. Like the other members of different systems and plans, the terms vary depending on date of entry into membership and system eligibility. The following information is a brief summary of the many detailed rules relating to state elected official membership.

Background:

Who is considered a State Elected Official?

Eligibility for the state elected official benefits vary somewhat by retirement system and plan. Members of the legislature, as well as holders of state-wide elected offices such as the Secretary of State, State Treasurer, and Lieutenant Governor are all examples of state elected officials in all plans.

Benefits for state elected officials vary by the plan they belong to, and also vary from the regular member of those plans. Some plans have rules for local government elected officials and officials appointed directly by the Governor that are distinct from the state elected official rules. The rules for groups other than state elected officials are not included in this discussion. The following table illustrates eligibility and other basic differences between the benefits for regular and state elected official members:

Eligibility and Benefit differences for State Elected Officials by system and plan:

System and Plan	Eligibility for State Elected Official benefits	Benefit differences?
PERS Plan 1	- elected or appointed to state office - a PERS 1 member when elected - a former PERS 1 member	- benefit based on 3 percent per year of AFC for eligible service. - member contribution rate is 7.5 %, rather than 6 %. - may retire and retain elected position if earning less than $15,000 per year, and abandon claims for future service.

System and Plan	Eligibility for State Elected Official benefits	Benefit differences?
PERS Plan 2/3	- elected to state office - a PERS 2/3, TRS 2/3, SERS, or LEOFF 2 member when elected - not a member when elected	- may retire and retain elected position if earning less than $15,000 per year, and abandon claims for future service.
TRS Plan 1	- elected or appointed to state office - a TRS 1 member when elected	- may retire and begin benefits without leaving elected office if claim to future service is waived. - member contribution rate is 7.5% rather than 6%.
TRS Plan 2/3	- elected or appointed to state office - a TRS 2/3 member when elected	- may enter PERS 2/3 or take a leave of absence from TRS 2/3, purchase TRS service after returning to teaching.
LEOFF plan 1	- elected or appointed to state office - elected to a full-time local office - a LEOFF 1 member when elected	
LEOFF Plan 2	- elected or appointed to state office - a LEOFF 2 member when elected	- option of joining PERS 2 rather than continuing LEOFF 2 membership.

With the exception of PERS 2/3, an individual must establish membership in the plan prior to entering their elected or appointed state office. PERS 2/3 is among those with different rules for state elected officials and Governor-appointed officials.

The plans and systems have numerous variations on membership in benefits, for example LEOFF plan 1 is the only one of these plans that treats some full-time local officials under the same rules as state elected officials. TRS plan 1 and PERS plan 1 each provide additional benefits, but also require their members to contribute an additional 1.5 percent of pay.

Rules for entering membership

The state elected official rules provide membership rules for members to opt-in to membership when they begin their elected or appointed service.

- During initial term

During a member's first term in office, they may apply for membership in PERS 2/3 or continue membership in their current plan. Members may generally continue to contribute and earn service credit, or may return to active membership from retirement upon entering office.

TRS 2/3 members are an exception to the general rule. They may take a leave of absence without pay from TRS 2/3 to serve in state elected office and be a member of no plan, or accumulate PERS 2/3 service during their term(s) of office. Upon return to active TRS service, a member that chose a leave of absence may purchase up to two years of TRS unpaid leave of absence service.

A member who is retired when they enter state elected or appointed office may face restrictions on their receipt of their retirement benefit while also being employed. These restrictions vary by system and plan.

In PERS 2/3, a retired member is limited to 867 hours of employment per year without reduction in their retirement benefit. In PERS 1 however, a member who is retired when elected or appointed to office may continue to receive their retirement allowance without reduction. A retired PERS 1 member may also choose to return to active service during a term of office, but any benefits received during the current term of office must be repaid.

As in PERS 2/3, a retired TRS 2/3 state elected official may work up to 867 hours per year and continue to receive an unreduced benefit. In TRS 1, a member may choose to retire or return to active membership during state elected or appointed service. If active TRS 1 member chooses to begin their benefit, all claim to future service while retired is waived. If a retired TRS 1 member returns to active service, their benefit ceases and all benefits paid during that term of office must be repaid.

- During subsequent terms

State elected officials in PERS and TRS 1 may also apply for membership for a new term of office or for following terms. Members of TRS 2/3 or LEOFF may, under some circumstances, be eligible to become an active member of PERS 2/3. Upon entering active membership, service credit will be granted back to the first day of the current term of office upon the member's payment of back employee contributions plus interest. The employer must pay the employer contributions back to the start of that same term.

Prior to retirement, members may apply for retroactive service credit for past terms of state elected or appointed office, however the payment terms differ. The state elected or appointed official must pay the required employee contributions, plus interest, and also the employer contributions plus interest. An employer may choose to pay those contributions for past terms of office in some plans, but is not required to.

When can members retire?

State elected official members of the PERS plans who earn more that $15,000 per year in their elected positions must meet the retirement criteria for their plan and separate from service to be eligible to receive a retirement benefit.

In TRS 1, a state elected or appointed official may, if eligible, retire from active membership and begin receiving monthly benefits while in office. The TRS 1 member must waive all claim to future service credit that would have been earned while in office. Like PERS 2/3, TRS 2/3 members may choose membership in PERS 2/3 or retire before entering office subject to the TRS 2/3 867 hour post-retirement employment limit, but may not retire while in state elective service.

Eligibility for service credit

Service in state elective positions is considered to be full-time service. For each full year of elected or appointed service, an official is eligible for 12 months of service credit.

Legislative earnable compensation options

Special rules exist for legislators to determine the salary used to determine their retirement allowances. Generally they permit the member to make up for a reduction in earnable compensation that might occur because of leave taken from other public employment for service in the legislature.

In PERS plan 1, a member on a leave of absence from a PERS job to serve in the legislature may use the salary that they would have earned in the other position in determining earnable compensation. Both the employee and employer contributions on the difference between the two earnable compensation amounts must be paid for the imputed compensation to be considered.

In PERS 2/3, a similar option is available, but statute specifically requires the member to pay both any additional member and employer contributions that may be required.

In TRS plan 1, if a member takes a leave of absence to serve in the legislature for five years or more, the member is entitled to use the salary from the position from which leave was taken as earnable compensation upon paying the required employee contributions. In addition, these members with five or more years of legislative service have an amount not to exceed $7,200 is added to their average final compensation.

In TRS plan 2/3 a member may use the greater of the salary that they would have earned if they had not served in the legislature, or their combined teaching and legislative compensation. The member must pay both the additional member and employer contributions required by the provision's increase to earnable compensation.

Option recommended by JCPP in 2001:

As part of a bill permitting all members to begin receiving their retirement allowances without separating from service at age 70 ½, HB 2396/SB 6383 permitted individuals who were elected or appointed to state office the option of beginning receipt of their retirement benefits without leaving office. Currently this option is available only in TRS 1.

Each term of office a legislative or state elected official member would have the option of active membership both contributing and earning service credit, or retiring and collecting the benefit they have earned waiving claim to service credit not earned while retired.

Joint Committee on Pension Policy

$150,000 Death Benefit

December 10, 2001

Prepared by: **Robert Wm. Baker**
Office of the State Actuary
P.O. Box 40914, Olympia, WA 98504-0914
360-753-9144 – actuary_st@leg.wa.gov

Background:

A duty-related death benefit is paid only where death occurs as a result of injuries sustained in the course of employment. There is also no time limit following the injury in which the death must result.

In 1996 the Legislature passed Engrossed Second Substitute Senate Bill 5322 (Chapter 226, Laws of 1996) which provided an additional $150,000 duty-related death benefit to survivors of members of LEOFF and WSP.

In 1998 SB 5217 (Chapter 151, laws of 1998) extend the same $150,000 death benefit coverage to volunteer fire fighters and reserve police officers. Following the passage of this bill, the Governor requested that the JCPP conduct a comprehensive study of duty-related death benefits for public employees. The Governor further requested that the study give consideration to providing an additional duty-death benefit to all public employees.

According to the State Actuary's experience study, there are about 10 duty-related deaths each biennium in the combined PERS, SERS, and TRS systems.

Death Benefits Available:

There are three types of government sponsored death benefits available to public employees outside of the state pension systems.

- Social Security;
- Labor and Industries (L&I);
- Federal Death Benefit;

Labor and Industries Death Benefit

Labor and Industries provides a lump sum for burial expenses together with an ongoing monthly benefit. The monthly benefit is 60% of gross wages plus 2% of gross wages for each dependent. The total monthly payment cannot exceed 120% of the state's average wage -- $3,704 -- for fiscal year 2001. This benefit is not offset by the Social Security survivor benefit nor is it offset by any other government pension benefit. The benefit does cease upon remarriage.

Social Security Survivor's Benefit

Social Security is paid as a monthly benefit and is available to survivors of both duty and nonduty-related deaths. The benefit amount is based on the earnings of the person who died; the more paid into Social Security, the higher the benefit. The benefit amount is based on a percentage of the deceased's Basic Social Security benefit. The percentage will vary depending on the survivor's age and on the number of surviving dependents. The most typical situations are listed below:

- Widow or widower age 65 or older: 100%
- Widow or widower age 60-64: About 71-94%
- Widow any age with a child under age 16: 75%
- Children: 75%

In general, the Social Security survivor benefit may be reduced or stopped completely if the surviving spouse:

- Returns to work and has earnings in excess of certain limits
- Already receives a Social Security benefit
- Remarries
- No longer has a child under the age of 16

Example

Male age 45 with wages of $40,000/yr

	Monthly	Annual
Basic Benefit Rate	$1,311	$15,732
Spouse under ret age	$983	$11,800
Child under 16	$983	$11,800
Family Maximum	$2,341	$28,100

Public Safety Officers Benefits Program

The Public Safety Officers Benefit Act of 1976 provides a federal duty-death benefit for police officers and fire-fighters who die in the line of duty. This is paid as a lump sum and is available to survivors of policemen and fire fighters only. The size of this benefit does not depend on the income level of the public safety officer prior to his/her death.

1976 - $50,000
1988 - $100,000 with a CPI inflator
2001 - $143,943

Pension Benefits

Aside from the specific death benefits mentioned above, there are also pension-related death benefits. Survivors of LEOFF 1 or WSPRS active members may receive a percent of the members salary plus additional allotments for children to a maximum of 60% of salary in both plans. The survivor of an active LEOFF 2 member may receive the member's earned retirement benefit, if they were eligible, or a refund of 150% of the member's contributions and interest; and if they were not eligible to retire, a refund of the member's contributions plus interest. Active survivor benefits in most other plans are either a refund of the member's contribution and interest if the member was not eligible to retire, or an actuarially reduced benefit if they were eligible.

Budget Language:

Even though this benefit has not passed legislative muster as a stand-alone bill, the language was included in the 2000 supplemental budget and the 2001-2003 budget. In this manner it is not a permanent benefit within the retirement chapter, but rather a temporary benefit that lasts the duration of the budget itself. The payment of a death benefit in this instance is treated as a sundry claim.

Budget Language in ESSB 6153.SL C007 L 01 E2

Sec. 714. DEATH BENEFIT--COMMON SCHOOLS. For the period from July 1, 2001, through June 30, 2003, a one hundred fifty thousand dollar death benefit shall be paid as a sundry claim to the estate of an employee in the common school system of the state who is killed in the course of employment. The determination of eligibility for the benefit shall be made consistent with Title 51 RCW by the department of labor and industries. The department of labor and industries shall notify the director of the department of general administration by order under RCW 51.52.050.

Sec. 715. DEATH BENEFIT--STATE AGENCIES. For the period from July 1, 2001, through June 30, 2003, a one hundred fifty thousand dollar death benefit shall be paid as a sundry claim to the estate of an employee of any state agency or higher education institution not otherwise provided a death benefit through coverage under their enrolled retirement system. The determination of eligibility for the benefit shall be made consistent with Title 51 RCW by the department of labor and industries. The department of labor and industries shall notify the director of the department of general administration by order under RCW 51.52.050.

JCPP Recommendation:

A $150,000 death benefit should be provided to survivors of PERS, SERS, and TRS plan members who die as a result of injuries sustained in the course of employment.

Fiscal Impact:

See Fiscal Note.

FISCAL NOTE

REQUEST NO.

RESPONDING AGENCY:	CODE:	DATE:	BILL NUMBER:
Office of the State Actuary	**035**	**2/7/01**	**HB 1479/SB 5596**

SUMMARY:

This bill impacts the Teachers Retirement System (TRS), the Public Employees Retirement System (PERS) and the School Employees Retirement System (SERS) by providing a $150,000 death benefit, where death occurs as a result of injuries sustained in the course of employment.

Effective Date: 90 days after session.

BACKGROUND DISCUSSION:

This benefit is currently provided in the Law Enforcement Officers and Fire Fighters Retirement System, and the Washington State Patrol Retirement System, and by PERS for security personnel of the states' ports or universities.

MEMBERS IMPACTED:

We estimate that all the 62,684 active members of TRS, the 150,738 active members of PERS, and the 45,644 active members of SERS would be affected by this bill by being provided death benefit coverage, but few would die and actually receive this benefit.

We estimate that there will be .5 eligible death in TRS, 3.9 eligible deaths in PERS and 1.2 eligible death in SERS each year, and that for a typical member impacted by this bill, the increase in benefits would be $150,000.

FISCAL IMPACT:

Actuarial Determinations:

The bill will impact the actuarial funding of TRS, PERS and SERS differently.

The bill will impact the actuarial funding of TRS, PERS and SERS by increasing the present value of benefits payable under the System as shown below. However, the increase in benefits is insufficient to increase the required actuarial contribution rate of TRS or PERS.

The employer and employee split the cost of this benefit in plan 2, while the cost in plans 1 & 3 is paid by the employer. As members transfer to plan 3 this cost will shift from the employer/employee to the employer. For SERS 2/3 this means the employer cost will increase from slightly less than .01% to somewhat more than .01%. For PERS 2/3 this means the cost will increase from somewhat more than .00% to slightly less than .01%. Because this change depends on the number of transfers and its impact is small, it is not reflected in the budget impact below.

The values for SERS are shown separate from PERS below.

(Dollars in Millions)	System	**Current**	**Increase**	**Total**
Actuarial Present Value of Projected Benefits	TRS 2/3	$ 3,661	$ 0.5	$ 3,662
The Value of the Total Commitment to all	TRS 1	10,382	0.1	10,382
Current Members	PERS 2/3	11,423	3.5	11,427
	PERS 1	12,494	0.5	12,495
	SERS 2/3	1,912	1.2	1,913
Unfunded Actuarial Accrued Liability	TRS 2/3	N/A	N/A	N/A
The Portion of the Plan 1 Liability that is	TRS 1	$ 1,263	$ 0.1	$ 1,263
Amortized until 2017	PERS 2/3	N/A	N/A	N/A
	PERS 1	1,589	0.5	1,590
	SERS 2/3	N/A	N/A	N/A
Unfunded Liability (PBO)	TRS 2/3	$ (1,361)	$ 0.3	$(1,361)
The Value of the Total Commitment to all	TRS 1	663	0.1	663
Current Members Attributable to Past	PERS 2/3	(4,460)	2.0	(4,458)
Service	PERS 1	809	0.4	809
	SERS 2/3	(892)	0.6	(891)
Required Contribution Rate	TRS	5.38%	.00%	5.38%
	PERS	3.21%	.00%	3.21%
	SERS 2/3	3.21%	.01%	3.22%

Fiscal Budget Determinations:

As a result of the higher required contribution rate, the increase in funding expenditures is projected to be:

Effective September 1, 2001

Increase in Contribution Rates:	**SERS 2/3**
Employee (SERS 2 only)	.01%
Employer State	.01%

Costs **(in Millions)**:

2001-2003	
State:	
General Fund	$ .1
Non-General Fund	0
Total State	**$ .1**
Local Government	$ .1

2001-2005

State:	
General Fund	$ .2
Non-General Fund	0
Total State	**$ .2**
Local Government	$ .2

2001-2026

General Fund	$ 2.9
Non-General Fund	0
Total State	**$ 2.9**
Local Government	$ 2.5

STATEMENT OF DATA AND ASSUMPTIONS USED IN PREPARING THIS FISCAL NOTE:

The costs presented in this fiscal bill are based on our understanding of the bill as well as generally accepted actuarial practices including the following:

1. Costs were developed using the same membership data, methods, assets and assumptions as those used in preparing the December 31, 1999 actuarial valuation report of the Public Employees Retirement System and the June 30, 1999 actuarial valuation report of the Teachers Employees Retirement System.

2. As with the costs developed in the actuarial valuation, the emerging costs of the System will vary from those presented in the valuation report or this fiscal note to the extent that actual experience differs from that projected by the actuarial assumptions.

3. Additional assumptions used to evaluate the cost impact of the bill which were not used or disclosed in the actuarial valuation report include the following:

   - The PERS members do not include School Employees who are mandated to transfer to the School Employees Retirement System, Plan 2.

   - Based on a prior study, it is assumed that eligible deaths will occur at the rate of 0.5 per year for TRS, 3.9 per year for PERS and 1.2 per year for SERS. The deaths in PERS and SERS were split in portion of the number of members. This is equivalent to a death rate of .0026% for SERS and PERS and .0008% for TRS.

4. The analysis of this bill does not consider any other proposed changes to the system. The combined effect of several changes to the system could exceed the sum of each proposed change considered individually.

5. This fiscal note is intended for use only during the 2001 Legislative Session.

6. The funding method used for Plan 1 utilizes the Plan 2 employer/state rate as the Normal Cost and amortizes the remaining liability (UAAL) by the year 2017. Benefit increases to Plan 2 will change the UAAL in Plan 1. The cost of benefit increases to Plan 1 increases the UAAL.

7. Plan 2 utilizes the Aggregate Funding Method. The cost of Plan 2 is spread over the average working lifetime of the current active Plan 2 members.

GLOSSARY OF ACTUARIAL TERMS:

Actuarial Present Value: The value of an amount or series of amounts payable or receivable at various times, determined as of a given date by the application of a particular set of Actuarial Assumptions.

Projected Benefits: Pension benefit amounts which are expected to be paid in the taking into account such items as the effect of advancement in age and past and anticipated future compensation and service credits.

Unfunded Actuarial Accrued Liability (UAAL): The cost of Plan 1 is divided into two pieces. The Normal Cost portion is paid over the working lifetime of the Plan 1 active members. The remaining cost is called the UAAL. The UAAL is paid for by employers as a percent of the salaries of all plan 1, 2 and 3 members until the year 2017.

Pension Benefit Obligation (PBO): The portion of the Actuarial Present Value of future benefits attributable to service credit that has been earned to date(past service).

Unfunded Liability (Unfunded PBO): The excess, if any, of the Pension Benefit Obligation over the Valuation Assets. This is the portion of all benefits earned to date that are not covered by plan assets.

Z-1448.1

SUBSTITUTE HOUSE BILL 2395

State of Washington 57th Legislature 2002 Regular Session

By House Committee on Appropriations (originally sponsored by Representatives Doumit, Alexander, Cooper, Conway, Delvin, Dickerson, Ogden, Rockefeller, Linville, Talcott, Hunt, Lovick, Lysen, Kagi, McIntire, Haigh, Simpson, Chase and Jackley; by request of Joint Committee on Pension Policy)

Read first time 02/05/2002. Referred to Committee on .

AN ACT Relating to providing a death benefit for certain state employees; adding a new section to chapter 41.40 RCW; adding a new section to chapter 41.32 RCW; adding a new section to chapter 41.35 RCW; and adding a new section to chapter 41.04 RCW.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

NEW SECTION. **Sec. 1.** A new section is added to chapter 41.40 RCW under the subchapter heading "provisions applicable to plan 1, plan 2, and plan 3" to read as follows:

(1) A one hundred fifty thousand dollar death benefit shall be paid to the member's estate, or such person or persons, trust or organization as the member has nominated by written designation duly executed and filed with the department. If no such designated person or persons are still living at the time of the member's death, the member's death benefit shall be paid to the member's surviving spouse as if in fact the spouse had been nominated by written designation, or if there is no surviving spouse, then to the member's legal representatives.

(2) The benefit under this section shall be paid only where death occurs as a result of injuries sustained in the course of employment.

The determination of eligibility for the benefit shall be made consistent with Title 51 RCW by the department of labor and industries. The department of labor and industries shall notify the department of retirement systems by order under RCW 51.52.050.

NEW SECTION. **Sec. 2.** A new section is added to chapter 41.32 RCW under the subchapter heading "provisions applicable to plan 1, plan 2, and plan 3" to read as follows:

(1) A one hundred fifty thousand dollar death benefit shall be paid to the member's estate, or such person or persons, trust or organization as the member has nominated by written designation duly executed and filed with the department. If no such designated person or persons are still living at the time of the member's death, the member's death benefit shall be paid to the member's surviving spouse as if in fact the spouse had been nominated by written designation, or if there is no surviving spouse, then to the member's legal representatives.

(2) The benefit under this section shall be paid only where death occurs as a result of injuries sustained in the course of employment. The determination of eligibility for the benefit shall be made consistent with Title 51 RCW by the department of labor and industries. The department of labor and industries shall notify the department of retirement systems by order under RCW 51.52.050.

NEW SECTION. **Sec. 3.** A new section is added to chapter 41.35 RCW under the subchapter heading "provisions applicable to plan 2 and plan 3" to read as follows:

(1) A one hundred fifty thousand dollar death benefit shall be paid to the member's estate, or such person or persons, trust or organization as the member has nominated by written designation duly executed and filed with the department. If no such designated person or persons are still living at the time of the member's death, the member's death benefit shall be paid to the member's surviving spouse as if in fact the spouse had been nominated by written designation, or if there is no surviving spouse, then to the member's legal representatives.

(2) The benefit under this section shall be paid only where death occurs as a result of injuries sustained in the course of employment. The determination of eligibility for the benefit shall be made

consistent with Title 51 RCW by the department of labor and industries. The department of labor and industries shall notify the department of retirement systems by order under RCW 51.52.050.

NEW SECTION. **Sec. 4.** A new section is added to chapter 41.04 RCW to read as follows:

A one hundred fifty thousand dollar death benefit shall be paid as a sundry claim to the estate of an employee of any state agency, the common school system of the state, or institution of higher education who dies as a result of injuries sustained in the course of employment and is not otherwise provided a death benefit through coverage under their enrolled retirement system. The determination of eligibility for the benefit shall be made consistent with Title 51 RCW by the department of labor and industries. The department of labor and industries shall notify the director of the department of general administration by order under RCW 51.52.050.

--- END ---

SEATTLE POST-INTELLIGENCER
http://seattlepi.nwsource.com/local/77071_auditor03.shtml

Trucker charged with murder in slaying of auditor

Wednesday, July 3, 2002

By SCOTT SUNDE
SEATTLE POST-INTELLIGENCER REPORTER

A state tax auditor who turned up missing after an appointment with a long-haul trucker was shot in the back of the head, dismembered and dumped in an Eastern Washington ditch, according to court documents.

Prosecutors in Lincoln County filed the documents to support the first-degree murder charge they filed yesterday against Ralph H. Benson, the truck driver. Benson, 62, is being held on $1 million bond and could face up to life in prison if convicted.

The court documents do not suggest a motive for the slaying. Ronald Shepherd, Lincoln County's prosecuting attorney, said neither his office nor criminal investigators would comment.

An affidavit filed by Sgt. Ken Wade of the Washington State Patrol says investigators found blood in the abandoned missile silo that Benson calls home and a bloody shirt in Benson's Cadillac. A crime laboratory matched blood samples from the missile silo and Cadillac to the DNA of Roger Erdman, the auditor with the Washington Department of Licensing, Wade wrote in the affidavit.

Erdman, 56, scheduled a random audit with Benson. The auditor checked trucker's records for compliance with fuel taxes and license fees.

He had arranged to meet Benson at 10:30 a.m. June 12 at Benson's home. Benson told officers that Erdman made the appointment, spent 10 to 15 minutes at his home and left with three boxes of business records, according to the affidavit.

Erdman's family became worried by 5 p.m. June 12. They said he would have called if he were late. Plus, medications he needed to take were at his home, court documents say.

Police found Erdman's van two days later near the Spokane River in Spokane. Officers didn't find business records in his van.

Investigators searched Benson's home June 17. They found droplets of blood from the entry down a corridor, a button that appeared to come from the bloody shirt found in the Cadillac and a spent bullet. A lab examination showed hair fibers and fleshy tissue on the bullet.

The search also turned up trucking records, which ought to have been given to Erdman, and firearms.

Benson was convicted of possession of stolen property in 1991 so could not own guns.

The discovery of the weapons led to Benson's arrest June 24 in North Seattle, where he was making deliveries. Lincoln County prosecutors charged him with unlawful weapons possession.

Erdman's body was found June 22 south of Cheney in Eastern Washington.

TRS 1 Extended School Year

Issue:

Members of the Teachers' Retirement System, plan 1 (TRS plan 1) base their retirement benefit on their years of service credit multiplied by their average earnable compensation in their two highest compensated consecutive years, up to a maximum of sixty percent. Earnable compensation for TRS plan 1 members is defined as all wages paid to the member for services rendered during a fiscal year, which for teachers runs from July 1 to June 30.

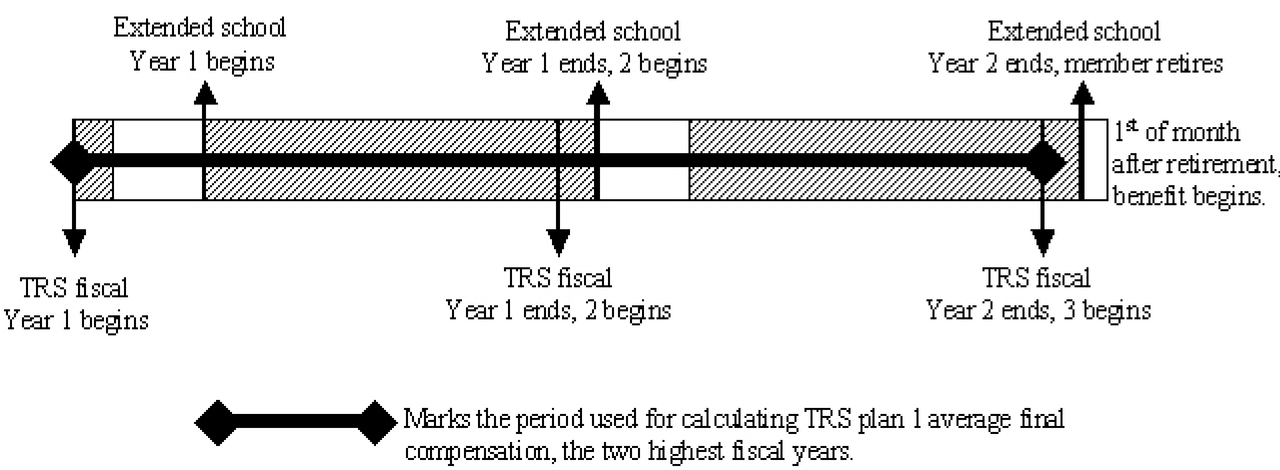
Some teachers work in extended school years which may run until mid July. Recent data supplied by the Superintendent of Public Instruction indicates that about ten school districts have one or more schools that operate on these extended calendars. The difference between the teachers fiscal year and the extended school year may have several effects on TRS plan 1 members benefits.

Analysis:

A. ***Extended school year AFC issue***

When members retire in TRS plan 1, RCW 41.32.498 states that their pension allowance shall be equal to their average earnable compensation for their two highest consecutive years of service. RCW 41.32.010(10)(a) specifies that "earnable compensation" is all wages paid for services rendered during the fiscal year.

Illustration of the TRS plan 1 AFC period, Fiscal Year, and an Example Extended School Year



The fiscal year for teachers' runs from July 1st to June 30th of the following year, as set in RCW 41.32.010(12). For teachers that are on a conventional school year schedule, this typically falls in the middle of their summer, as their school year may typically run from late August until mid-June of each year.

A difference in the timing of the end of the statutory fiscal year and the end of the extended school year may result in different earnable compensation amounts for TRS plan 1 members whose annual salary is the same, depending on whether they teach on traditional or extended school-year calendars.

If a TRS plan 1 member retires at the end of an extended school year that runs beyond the end of the fiscal year, the highest two consecutive school years of compensation may not include the final weeks of their career compensation - these fall into a fiscal year during which the member worked only a short period of time.

The Impact of Extended School Year "Look-back" on TRS plan 1 Pension for a typical 2001 retiree

	Conventional School Year		Extended School Year		Difference in Pension amount	
Retirement Date	7/1/01		8/1/01		-	
AFC - using look-back on final two weeks of extended year pay.	$53,426		$53,201		$225 in AFC	
Annual (monthly) pension for 15 years of service	$16,028	($1336)	$15,961	($1330)	$67	($5.60)
Annual (monthly) pension for 30 years of service	$32,055	($2671)	$31,921	($2660)	$134	($11.20)

Instead of these last two weeks, the member includes the two weeks from the "beginning" of the fiscal year - the end of their extended school year - from the year before last. This process of including the weeks taught in the prior school year, but in one of the member's two highest fiscal years that are used for calculating their average final compensation (AFC), is often referred to as the "look-back" process.

As illustrated on the table "The Impact of Extended School Year "Look-back" a teacher who retires" with a typical AFC of about $53,000 and 30 years of service, the effect of the look-back during years of average salary increases the effect could be to reduce their monthly pension amount by approximately $11. For a similarly situated teacher with fifteen years of service, that amount would be half, or about $6.

In plan 2/3 the rules for application and the effective date of retirement negate any difference for teachers on conventional school year calendars or extended school year calendars. This is because the allowance in plan 2 and 3 is calculated on the basis of the "average final compensation" for plan 2 and 3 members, defined as the member's average earnable compensation over the member's highest consecutive sixty service credit months.

This monthly determination in plan 2/3, rather than the annual fiscal year determination in plan 1 effectively eliminates the effects of the extended school year on members of the newer plans.

B. ***One Month Later Start to Retirement Benefit - Plan 1***

For a conventional school year TRS 1 teacher that finishes their final contract in mid-June, retirement benefits may begin on July 1st of that year. This is consistent with the rule that benefits begin payment on the first of the month following the month in which the member terminates service. This rule is contained in WAC 415-112-520, interpreting RCW 41.32.480.

Because they retire one month later, teachers similarly situated except for one being in an extended school year program would in a sense receive one less benefit payment during their initial year of retirement. In the above example this amount would be about $2660 for a teacher with 30 years of service.

In plan 2 and plan 3, a teacher typically does not start their benefit until the September following their retirement, regardless of whether their final school year ends in June or July. The fiscal year definition used in TRS 1 is not used for pensions in the newer plans. A teacher from these plans does not receive service credit for the entire school year, and therefore a reduced benefit, unless their retirement begins at the end of the school year - September through August.

C. ***Possible Approach***

TRS plan 1 teachers in extended school year programs could have their average final compensation calculated on the greater of either the current formula of their two highest consecutive fiscal years, or the two highest consecutive extended school years as defined by their school district. This would account for the possible adverse effect of the fiscal year determination on their benefits, but would not address the issue of their benefit starting one month later than conventional school year TRS plan 1 members.

D. ***Executive Committee Proposal***

Permit TRS plan 1 teachers in extended school year programs to have either two consecutive fiscal years or two consecutive extended school years, as defined by their school districts, used in the calculation of their average final compensation.

FISCAL NOTE

REQUEST NO.

RESPONDING AGENCY:	CODE:	DATE:	BILL NUMBER:
Office of the State Actuary	**035**	**1/16/02**	**HB 2390/SB 6377**

SUMMARY:

Members of the Teachers' Retirement System (TRS), plan 1 teaching in an extended school year program may use two consecutive extended school years, as defined by their school district, rather than two fiscal years in determining their average final compensation.

Effective Date: 90 days after session.

BACKGROUND DISCUSSION:

Some TRS plan 1 members may, under certain circumstances, see a slight reduction in their retirement benefit if teaching in an extended school year program as compared to another similarly situated member teaching in a conventional school year program. This is due to the final extended school year of their teaching career ending after the end of the last full fiscal year of their career.

MEMBERS IMPACTED:

A small number of TRS plan 1 members likely teach in extended school year programs. Some of them may see a small increase in their average final compensation, and resulting retirement benefit, from this option.

FISCAL IMPACT:

None.

Z-1155.1

HOUSE BILL 2390

State of Washington 57th Legislature 2002 Regular Session

By Representatives Doumit, Cooper, Alexander, Conway, Linville, Talcott, Kirby, Lysen, Kenney, Simpson, Esser and Jackley; by request of Joint Committee on Pension Policy

Read first time 01/16/2002. Referred to Committee on Appropriations.

AN ACT Relating to allowing members of the teachers' retirement system plan 1 to use extended school years for calculation of their earnable compensation; and amending RCW 41.32.010.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

Sec. 1. RCW 41.32.010 and 1997 c 254 s 3 are each amended to read as follows:

As used in this chapter, unless a different meaning is plainly required by the context:

(1)(a) "Accumulated contributions" for plan 1 members, means the sum of all regular annuity contributions and, except for the purpose of withdrawal at the time of retirement, any amount paid under RCW 41.50.165(2) with regular interest thereon.

(b) "Accumulated contributions" for plan 2 members, means the sum of all contributions standing to the credit of a member in the member's individual account, including any amount paid under RCW 41.50.165(2), together with the regular interest thereon.

(2) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of such mortality tables and regulations as shall be adopted by the director and regular interest.

(3) "Annuity" means the moneys payable per year during life by reason of accumulated contributions of a member.

(4) "Member reserve" means the fund in which all of the accumulated contributions of members are held.

(5)(a) "Beneficiary" for plan 1 members, means any person in receipt of a retirement allowance or other benefit provided by this chapter.

(b) "Beneficiary" for plan 2 and plan 3 members, means any person in receipt of a retirement allowance or other benefit provided by this chapter resulting from service rendered to an employer by another person.

(6) "Contract" means any agreement for service and compensation between a member and an employer.

(7) "Creditable service" means membership service plus prior service for which credit is allowable. This subsection shall apply only to plan 1 members.

(8) "Dependent" means receiving one-half or more of support from a member.

(9) "Disability allowance" means monthly payments during disability. This subsection shall apply only to plan 1 members.

(10)(a) "Earnable compensation" for plan 1 members, means:

(i) All salaries and wages paid by an employer to an employee member of the retirement system for personal services rendered during a fiscal year. In all cases where compensation includes maintenance the employer shall fix the value of that part of the compensation not paid in money.

(ii) <u>For an employee member of the retirement system teaching in an extended school year program, two consecutive extended school years, as defined by the employer school district, may be used as the annual period for determining earnable compensation in lieu of the two fiscal years.</u>

<u>(iii)</u> "Earnable compensation" for plan 1 members also includes the following actual or imputed payments, which are not paid for personal services:

(A) Retroactive payments to an individual by an employer on reinstatement of the employee in a position, or payments by an employer to an individual in lieu of reinstatement in a position which are awarded or granted as the equivalent of the salary or wages which the individual would have earned during a payroll period shall be considered earnable compensation and the individual shall receive the equivalent service credit.

(B) If a leave of absence, without pay, is taken by a member for the purpose of serving as a member of the state legislature, and such member has served in the legislature five or more years, the salary which would have been received for the position from which the leave of absence was taken shall be considered as compensation earnable if the employee's contribution thereon is paid by the employee. In addition, where a member has been a member of the state legislature for five or more years, earnable compensation for the member's two highest compensated consecutive years of service shall include a sum not to exceed thirty-six hundred dollars for each of such two consecutive years, regardless of whether or not legislative service was rendered during those two years.

((~~(iii)~~)) (iv) For members employed less than full time under written contract with a school district, or community college district, in an instructional position, for which the member receives service credit of less than one year in all of the years used to determine the earnable compensation used for computing benefits due under RCW 41.32.497, 41.32.498, and 41.32.520, the member may elect to have earnable compensation defined as provided in RCW 41.32.345. For the purposes of this subsection, the term "instructional position" means a position in which more than seventy-five percent of the member's time is spent as a classroom instructor (including office hours), a librarian, or a counselor. Earnable compensation shall be so defined only for the purpose of the calculation of retirement benefits and only as necessary to insure that members who receive fractional service credit under RCW 41.32.270 receive benefits proportional to those received by members who have received full-time service credit.

((~~(iv)~~)) (v) "Earnable compensation" does not include:

(A) Remuneration for unused sick leave authorized under RCW 41.04.340, 28A.400.210, or 28A.310.490;

(B) Remuneration for unused annual leave in excess of thirty days as authorized by RCW 43.01.044 and 43.01.041.

(b) "Earnable compensation" for plan 2 and plan 3 members, means salaries or wages earned by a member during a payroll period for personal services, including overtime payments, and shall include wages and salaries deferred under provisions established pursuant to sections 403(b), 414(h), and 457 of the United States Internal Revenue Code, but shall exclude lump sum payments for deferred annual sick leave, unused accumulated vacation, unused accumulated annual leave, or any form of severance pay.

"Earnable compensation" for plan 2 and plan 3 members also includes the following actual or imputed payments which, except in the case of (b)(ii)(B) of this subsection, are not paid for personal services:

(i) Retroactive payments to an individual by an employer on reinstatement of the employee in a position or payments by an employer to an individual in lieu of reinstatement in a position which are awarded or granted as the equivalent of the salary or wages which the individual would have earned during a payroll period shall be considered earnable compensation, to the extent provided above, and the individual shall receive the equivalent service credit.

(ii) In any year in which a member serves in the legislature the member shall have the option of having such member's earnable compensation be the greater of:

(A) The earnable compensation the member would have received had such member not served in the legislature; or

(B) Such member's actual earnable compensation received for teaching and legislative service combined. Any additional contributions to the retirement system required because compensation earnable under (b)(ii)(A) of this subsection is greater than compensation earnable under (b)(ii)(B) of this subsection shall be paid by the member for both member and employer contributions.

(11) "Employer" means the state of Washington, the school district, or any agency of the state of Washington by which the member is paid.

(12) "Fiscal year" means a year which begins July 1st and ends June 30th of the following year.

(13) "Former state fund" means the state retirement fund in operation for teachers under chapter 187, Laws of 1923, as amended.

(14) "Local fund" means any of the local retirement funds for teachers operated in any school district in accordance with the provisions of chapter 163, Laws of 1917 as amended.

(15) "Member" means any teacher included in the membership of the retirement system. Also, any other employee of the public schools who, on July 1, 1947, had not elected to be exempt from membership and who, prior to that date, had by an authorized payroll deduction, contributed to the member reserve.

(16) "Membership service" means service rendered subsequent to the first day of eligibility of a person to membership in the retirement system: PROVIDED, That where a member is employed by two or more employers the individual shall receive no more than one service credit month during any calendar month in which multiple service is rendered. The provisions of this subsection shall apply only to plan 1 members.

(17) "Pension" means the moneys payable per year during life from the pension reserve.

(18) "Pension reserve" is a fund in which shall be accumulated an actuarial reserve adequate to meet present and future pension liabilities of the system and from which all pension obligations are to be paid.

(19) "Prior service" means service rendered prior to the first date of eligibility to membership in the retirement system for which credit is allowable. The provisions of this subsection shall apply only to plan 1 members.

(20) "Prior service contributions" means contributions made by a member to secure credit for prior service. The provisions of this subsection shall apply only to plan 1 members.

(21) "Public school" means any institution or activity operated by the state of Washington or any instrumentality or political subdivision thereof employing teachers, except the University of Washington and Washington State University.

(22) "Regular contributions" means the amounts required to be deducted from the compensation of a member and credited to the member's individual account in the member reserve. This subsection shall apply only to plan 1 members.

(23) "Regular interest" means such rate as the director may determine.

(24)(a) "Retirement allowance" for plan 1 members, means monthly payments based on the sum of annuity and pension, or any optional benefits payable in lieu thereof.

(b) "Retirement allowance" for plan 2 and plan 3 members, means monthly payments to a retiree or beneficiary as provided in this chapter.

(25) "Retirement system" means the Washington state teachers' retirement system.

(26)(a) "Service" for plan 1 members means the time during which a member has been employed by an employer for compensation.

(i) If a member is employed by two or more employers the individual shall receive no more than one service credit month during any calendar month in which multiple service is rendered.

(ii) As authorized by RCW 28A.400.300, up to forty-five days of sick leave may be creditable as service solely for the purpose of determining eligibility to retire under RCW 41.32.470.

(iii) As authorized in RCW 41.32.065, service earned in an out-of-state retirement system that covers teachers in public schools may be applied solely for the purpose of determining eligibility to retire under RCW 41.32.470.

(b) "Service" for plan 2 and plan 3 members, means periods of employment by a member for one or more employers for which earnable compensation is earned subject to the following conditions:

(i) A member employed in an eligible position or as a substitute shall receive one service credit month for each month of September through August of the following year if he or she earns earnable compensation for eight hundred ten or more hours during that period and is employed during nine of those months, except that a member may not receive credit for any period prior to the member's employment in an eligible position except as provided in RCW 41.32.812 and 41.50.132;

(ii) If a member is employed either in an eligible position or as a substitute teacher for nine months of the twelve month period between September through August of the following year but earns earnable compensation for less than eight hundred ten hours but for at least six hundred thirty hours, he or she will receive one-half of a service credit month for each month of the twelve month period;

(iii) All other members in an eligible position or as a substitute teacher shall receive service credit as follows:

(A) A service credit month is earned in those calendar months where earnable compensation is earned for ninety or more hours;

(B) A half-service credit month is earned in those calendar months where earnable compensation is earned for at least seventy hours but less than ninety hours; and

(C) A quarter-service credit month is earned in those calendar months where earnable compensation is earned for less than seventy hours.

(iv) Any person who is a member of the teachers' retirement system and who is elected or appointed to a state elective position may continue to be a member of the retirement system and continue to receive a service credit month for each of the months in a state elective position by making the required member contributions.

(v) When an individual is employed by two or more employers the individual shall only receive one month's service credit during any calendar month in which multiple service for ninety or more hours is rendered.

(vi) As authorized by RCW 28A.400.300, up to forty-five days of sick leave may be creditable as service solely for the purpose of determining eligibility to retire under RCW 41.32.470. For purposes of plan 2 and plan 3 "forty-five days" as used in RCW 28A.400.300 is equal to two service credit months. Use of less than forty-five days of sick leave is creditable as allowed under this subsection as follows:

(A) Less than eleven days equals one-quarter service credit month;

(B) Eleven or more days but less than twenty-two days equals one-half service credit month;

(C) Twenty-two days equals one service credit month;

(D) More than twenty-two days but less than thirty-three days equals one and one-quarter service credit month;

(E) Thirty-three or more days but less than forty-five days equals one and one-half service credit month.

(vii) As authorized in RCW 41.32.065, service earned in an out-of-state retirement system that covers teachers in public schools may be applied solely for the purpose of determining eligibility to retire under RCW 41.32.470.

(viii) The department shall adopt rules implementing this subsection.

(27) "Service credit year" means an accumulation of months of service credit which is equal to one when divided by twelve.

(28) "Service credit month" means a full service credit month or an accumulation of partial service credit months that are equal to one.

(29) "Teacher" means any person qualified to teach who is engaged by a public school in an instructional, administrative, or supervisory capacity. The term includes state, educational service district, and school district superintendents and their assistants and all employees certificated by the superintendent of public instruction; and in addition thereto any full time school doctor who is employed by a public school and renders service of an instructional or educational nature.

(30) "Average final compensation" for plan 2 and plan 3 members, means the member's average earnable compensation of the highest consecutive sixty service credit months prior to such member's retirement, termination, or death. Periods constituting authorized leaves of absence may not be used in the calculation of average final compensation except under RCW 41.32.810(2).

(31) "Retiree" means any person who has begun accruing a retirement allowance or other benefit provided by this chapter resulting from service rendered to an employer while a member.

(32) "Department" means the department of retirement systems created in chapter 41.50 RCW.

(33) "Director" means the director of the department.

(34) "State elective position" means any position held by any person elected or appointed to state-wide office or elected or appointed as a member of the legislature.

(35) "State actuary" or "actuary" means the person appointed pursuant to RCW 44.44.010(2).

(36) "Substitute teacher" means:

(a) A teacher who is hired by an employer to work as a temporary teacher, except for teachers who are annual contract employees of an employer and are guaranteed a minimum number of hours; or

(b) Teachers who either (i) work in ineligible positions for more than one employer or (ii) work in an ineligible position or positions together with an eligible position.

(37)(a) "Eligible position" for plan 2 members from June 7, 1990, through September 1, 1991, means a position which normally requires two or more uninterrupted months of creditable service during September through August of the following year.

(b) "Eligible position" for plan 2 and plan 3 on and after September 1, 1991, means a position that, as defined by the employer, normally requires five or more months of at least seventy hours of earnable compensation during September through August of the following year.

(c) For purposes of this chapter an employer shall not define "position" in such a manner that an employee's monthly work for that employer is divided into more than one position.

(d) The elected position of the superintendent of public instruction is an eligible position.

(38) "Plan 1" means the teachers' retirement system, plan 1 providing the benefits and funding provisions covering persons who first became members of the system prior to October 1, 1977.

(39) "Plan 2" means the teachers' retirement system, plan 2 providing the benefits and funding provisions covering persons who first became members of the system on and after October 1, 1977, and prior to July 1, 1996.

(40) "Plan 3" means the teachers' retirement system, plan 3 providing the benefits and funding provisions covering persons who first become members of the system on and after July 1, 1996, or who transfer under RCW 41.32.817.

(41) "Index" means, for any calendar year, that year's annual average consumer price index, Seattle, Washington area, for urban wage earners and clerical workers, all items compiled by the bureau of labor statistics, United States department of labor.

(42) "Index A" means the index for the year prior to the determination of a postretirement adjustment.

(43) "Index B" means the index for the year prior to index A.

(44) "Index year" means the earliest calendar year in which the index is more than sixty percent of index A.

(45) "Adjustment ratio" means the value of index A divided by index B.

(46) "Annual increase" means, initially, fifty-nine cents per month per year of service which amount shall be increased each July 1st by three percent, rounded to the nearest cent.

(47) "Member account" or "member's account" for purposes of plan 3 means the sum of the contributions and earnings on behalf of the member in the defined contribution portion of plan 3.

(48) "Separation from service or employment" occurs when a person has terminated all employment with an employer.

(49) "Employed" or "employee" means a person who is providing services for compensation to an employer, unless the person is free from the employer's direction and control over the performance of work. The department shall adopt rules and interpret this subsection consistent with common law.

--- END ---